

7th February 1955]

Tindivanam taluk.

- | | |
|------------------|----------------------------|
| 1 Periathachur. | 8 Rattani. |
| 2 Vikravandy. | 9 Kiladayalam. |
| 3 Padirapuliur. | 10 Tindivanam Municipality |
| 4 Mailam. | I set. |
| 5 Dadapuram. | 11 Tindivanam Municipality |
| 6 Merkanam. | II set. |
| 7 Vellimadaipet. | |

APPENDIX V.

[Vide item VI (2) on page 45 supra.]

REPORT OF THE SELECT COMMITTEE ON THE MADRAS
IRRIGATION (LEVY OF BETTERMENT CONTRI-
BUTION) BILL, 1954 (L.A. BILL No. 26 OF 1954).

To

THE HONOURABLE THE LEGISLATIVE ASSEMBLY,
MADRAS.

The Select Committee appointed to consider the Madras Irrigation (Levy of Betterment Contribution) Bill, 1954 (L.A. Bill No. 26 of 1954), has the honour to make the following report.

2. The Bill was published in English in an extraordinary issue of the *Fort St. George Gazette*, dated the 15th May 1954, and in Tamil, Telugu, Malayalam, Kannada and Hindustani in the *Fort St. George Gazette*, dated the 9th June 1954.

3. The Select Committee was appointed by a resolution of the Assembly, dated the 18th May 1954, and leave of the House was also given to the Select Committee to sit at any place in the State to enable its members personally to inspect the ayacut under the major irrigation works.

4. The Select Committee met in the Ministers' Room, Government Estate, Madras, on the 14th June 1954, in the 'Bhavani House' at Bhavanisagar, Coimbatore district, on the 8th July 1954, in the 'Circuit House' at Mettur Dam, on the 9th July 1954, in the 'Malampuzha House', at Malampuzha Dam site, on the 14th and 15th September 1954 and in the Committee Room, Fort St. George, on the 1st November 1954.

5. At its meetings at Bhavanisagar, Mettur Dam and Malampuzha, the Committee received memoranda presented to them by certain Associations and individuals in respect of the Bill and also examined select individuals who offered to give evidence before them. Some of them were members of the Legislature.

6. The Committee has subjected the clauses of the Bill to a detailed scrutiny in the light of the representations made to them in the memoranda presented to it and the evidence tendered before it.

[7th February 1955]

7. As originally worded, the Bill applied even to ayacuts served by petty or minor irrigation works. The Committee thinks the levy of betterment contribution should be limited to lands benefited by irrigation and drainage works, the cost of which exceeds Rs. 25,000. Clause 3 of the Bill has been amended accordingly.

8. In calculating the amount of betterment contribution, the Bill as introduced allowed only the cost of making the lands fit for advantageous irrigation under the work to be deducted from the sum of ten times the annual increase in the gross produce. But the Committee considers that in addition to this capital investment, the increase in the annual cultivation expenses of raising a wet crop on lands on which only dry crops had been previously raised must also be taken into consideration. The Committee has accordingly decided to add to clause 4 (2) a proviso so that in the case where a land was originally under dry cultivation and which with a view to derive benefit from the work was brought under wet cultivation, a sum representing the difference between the cost of wet cultivation and the cost of dry cultivation may be deducted from the increase in gross produce for the purpose of calculating the increase in the capital value of those lands.

9. The other important changes made by the Committee are noted below :—

Clause 6.

This clause provides for payment of betterment contribution after the expiry of two years from the date of completion of a drainage or irrigation work. The Committee thinks that the date of completion should be defined and has decided that the following sub-clause should be added to clause 6, namely :—

“ For the purpose of this section and section 4 the construction, expansion or alteration of a ‘ work ’ shall be deemed to be completed on the date of cessation of all work connected with its construction, expansion or alteration or on the date when the work is ready to be put in actual operation, whichever is later.”

Clause 8.

After clause 8, a new clause has been added. Under this clause any person having interest in a land may pay the entire contribution payable by the landholder. If such person pays the entire contribution within a period of two years from the date when such contribution becomes payable he will be entitled to a rebate of 20 per cent.

Clause 10 renumbered by the Committee as clause 11.

The Committee considered at length the desirability of making a tenant share the liability to pay a rateable portion of the betterment contribution under the Bill and finally decided to add a proviso which will have the effect of restricting the levy of contribution from the tenant to cases where he is liable under any law or

7th February 1955]

custom of the locality to deliver to the landholder a share of the produce and such share has not been altered subsequent to the completion of the work by agreement between the parties. It thinks that in other cases, no levy should be made from a tenant.

10. The other changes made in the Bill are all shown in the copy of the Bill annexed. It is not considered necessary to refer to them in detail.

11. The Committee is also of opinion that the Bill has not been materially altered and that therefore it need not be re-published.

12. Dissenting minutes given by certain members are appended.

M. A. MANICKAVELU NAICKER,

Chairman.

GOVERNMENT ESTATE, MOUNT ROAD, MADRAS,

27th November 1954.



[7th February 1955]

ANNEXURE.

Note.—The changes made are sidelined or underlined and the portions omitted are indicated by dots.

L.A. BILL No. 26 OF 1954.

A Bill to provide for the levy of betterment contribution on certain lands in the State of Madras.

WHEREAS it is expedient to provide for the levy of betterment contribution on certain lands in the State of Madras :

BE it enacted in the Fifth Year of the Republic of India as follows :—

1. Short title and extent.—(1) This Act may be called the Madras Irrigation (Levy of Betterment Contribution) Act, 1954.

(2) It extends to the whole of the State of Madras.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context—

(1) 'contribution' means the betterment contribution referred to in section 3;

(2) 'drainage work' includes—

(a) channels, whether natural or artificial, for the discharge of waste or surplus water and all works connected with or auxiliary to such channels;

(b) escape channels from an irrigation work;

(c) dams, weirs, embankments, sluices and groynes;

(d) all works for the protection of lands from floods or from erosion, which are owned or controlled by the Government, or which are maintained by them otherwise than by an assignment of land or land revenue made confirmed, or recognised by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person, but does not include works for the removal of sewage,

(3) 'Government' means the State Government;

(4) 'irrigation work' includes—

(a) all canals, channels, tanks, wells, reservoirs, ponds, spring ponds and *madugus* used for the supply or storage of water, and all works, embankments and structures (other than escape channels) connected therewith or auxiliary thereto, which are owned or controlled by the Government, or which are maintained by them otherwise than by an assignment of land or land revenue made, confirmed or recognized by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person;

7th February 1955]

(b) all such lakes and other natural collections of water or parts thereof as are situated on lands which are the property of Government;

(c) all rivers and natural streams or parts thereof;

(5) 'landholder' in relation to any land means the person liable to pay the public revenue due on the land:

Provided that—

(a) in respect of any land comprised in the holding of a kanamdar or a customary verumpattamdar in the territory to which the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930) extends, the kanamdar or the customary verumpattamdar, as the case may be, and

(b) in respect of any land in the possession of a walawargadar, a kayemgenidar, a permanent tenant or a mulgeni tenant in the South Kanara district, such walawargadar, kayemgenidar, permanent tenant or mulgeni tenant, as the case may be, shall be deemed to be the landholder in respect of such land.

(6) 'notification' means a notification published in the *Fort St. George Gazette*;

(7) 'prescribed' means prescribed by rules made under this Act;

(8) 'work' means an irrigation or drainage work.

3. Levy of betterment contribution.—The Government shall be entitled to levy a betterment contribution, in accordance with the provisions of this Act, from the landholder of any land which, in their opinion, is benefited by the construction, expansion or alteration by the Government of any work (including the installation by them of a pumping set), the cost of which exceeds twenty-five thousand rupees whether after the commencement of this Act, or at any time before such commencement but not earlier than the 1st January 1947.

Explanation I.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed provided such non-enjoyment is due solely to action or inaction on the part of the person or persons interested in such land.

Explanation II.—A land shall not be deemed to be benefited merely by reason of the maintenance of an existing work wholly or partly at the expense of the Government.

4. Amount of betterment contribution.—(1) The lands benefited by the construction, expansion or alteration of any work shall be divided into suitable classes by the Government and the annual increase in the gross produce of each class of lands shall be estimated:

[7th February 1955]

Provided that all lands which are of the same *taram* and which, judged by their commandability, are so situated as to derive the same amount of benefit from the work shall be placed in the same class :

Provided further that the estimate shall be made with reference to the average of the prices prevailing, in the case of a work whose construction, expansion or alteration was completed before the commencement of this Act, during the three years immediately preceding such commencement and, in the case of a work whose construction, expansion or alteration was completed after the commencement of this Act, during the three years immediately preceding such completion.

(2) Ten times the annual increase in the gross produce estimated under sub-section (1) shall be deemed to be the increase in the capital value of each class of lands; and the contribution payable in respect of such class of lands shall be one-half of the difference between the said increase in the capital value and the cost (estimated in the prescribed manner) of making the lands fit for advantageous irrigation under the work :

Provided that in the case of lands which were originally under dry cultivation and which, with a view to derive benefit from the work, were brought under wet cultivation, a sum representing the difference between the cost of wet cultivation and the cost of dry cultivation as determined in the prescribed manner shall be deducted from the increase in gross produce for the purpose of calculating the increase in capital value of those lands.

(3) The contribution payable in respect of each class of lands expressed in terms of rate per acre shall be notified in the District Gazette and in such other manner, if any, as may be prescribed :

Provided that the officer authorized in that behalf shall, before determining the contribution under the foregoing provisions of this section, publish his proposals in the prescribed manner and shall consider suggestions and objections received within the time allowed :

Provided further that, against a decision with respect to contribution notified under this sub-section, an appeal shall lie to the prescribed authority and any modification made on such appeal shall be notified in the prescribed manner.

(4) Decisions with respect to contribution notified under sub-section (3) shall, subject to the right of appeal provided in the said sub-section, be final, shall be binding on all persons having interest in the lands and shall not be liable to be questioned in a Court of Law.

5. *Contribution recoverable as arrear of land revenue.*—Contribution payable under this Act in respect of any land shall be deemed to be public revenue due upon the said land; and the land, the buildings (owned and occupied by the land-holder) standing upon

7th February 1955]

it and its products shall be regarded as the security of the contribution. When the whole or portion of an instalment of the contribution payable in any year is not paid on the due date, the amount of the instalment or its unpaid portion shall be deemed to be an arrear of land revenue and the provisions of the Madras Revenue Recovery Act, 1864 (Madras Act II of 1864), and of the Madras City Land Revenue Act, 1851 (Central Act XII of 1851), as amended by the Madras City Land Revenue (Amendment) Act, 1867 (Madras Act VI of 1867), shall apply to the recovery of the said arrear as they apply to the recovery of the revenue due on the land.

6. When contribution becomes payable.—(1) Contribution shall become payable under this Act on a written notice of demand therefor issued by an officer authorized by the Government in this behalf being served on the landholder :

Provided that no such notice shall be served until the expiry of two years after the date of completion of the construction, expansion or alteration of the work :

Provided further that where, before the commencement of this Act, two years or more have elapsed from the date of completion of the construction, expansion or alteration of the work, such notice may be served at any time after such commencement.

(2) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than the landholder, who has an interest in the land or on a successor-in-interest of the landholder or in respect of any instalment of the contribution.

(3) For the purpose of this section and section 4, the construction, expansion or alteration of a 'work' shall be deemed to be completed on the date of cessation of all work connected with its construction, expansion or alteration or on the date when the work is ready to be put in actual operation, whichever is later.

7. Mode of payment of contribution.—(1) The contribution payable by a landholder shall be paid by him in twenty equal annual instalments :

Provided that he shall be entitled to pay the entire contribution with a rebate of twenty per cent within a period of two years from the date on which he becomes liable to pay the contribution.

(2) Arrears of instalments of the contribution shall bear interest at the rate of six per cent per annum.

8. Rebate in certain cases.—If the Government accept any money from any person for the construction, expansion or alteration of any work and such person becomes liable to pay contribution in respect of any land benefited by such construction, expansion or alteration, the sum accepted from him shall be credited towards the contribution payable by him.

[7th February 1955]

9. *Payment of contribution by person having interest in land.*—

Any person having interest in a land may, notwithstanding that he is not the landholder of such land, pay the contribution payable by the landholder in respect of such land and shall, if such person pays the entire contribution within a period of two years from the date on which the landholder becomes liable to pay the contribution, be entitled to a rebate of twenty per cent.

10. *Right of reimbursement in respect of contribution.*—Where the landholder [not being in the territory to which the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930) extends, a kanamdar or a customary verumpattamdar, or in the South Kanara district a walawargadar, a kayemgenidar, a permanent tenant or a mulgeni tenant] liable to pay contribution under this Act is not the owner of the land or is a co-owner of the land, nothing in this Act shall be deemed to affect his right to reimbursement from the owner or to recover proportionate part from the co-owner, as the case may be.

11. *Apportionment of contribution.*—Where a landholder whose case is not covered by section 10 and who has paid an instalment of contribution under this Act is not the occupier of the land, he shall, in the absence of a contract to the contrary, be entitled to recover the amount of such instalment from the person who is in actual occupation of the land during the year in which the said instalment is payable :

Provided that where such person is a tenant, the landholder shall be entitled to recover from the tenant the instalment of contribution referred to in this section only if the tenant is liable under any law or custom of the locality to deliver to the landholder a share of the produce and such share has not been altered subsequent to the completion of the work by agreement between the parties, and the amount that can be recovered from such a tenant shall bear to the total amount of the instalment the same proportion as the tenant's share of the produce bears to the total produce of the land :

Provided further that, where the landholder has paid the entire contribution with a rebate under the proviso to sub-section (1) of section 7, a twentieth part of the sum actually paid shall be deemed to be the instalment of the contribution payable during every year during which an instalment of the contribution would have been payable had the entire contribution not been so paid.

12. *Exemption.*—If, in the opinion of the Government, the enforcement or strict enforcement of all or any of the provisions of this Act will cause hardship in any case or cases, the Government may, by notification, setting out the ground therefor, exempt either permanently or for a specified period such case or cases from all or any of the provisions of this Act, subject to such conditions, if any, as the Government may deem fit to impose.

7th February 1955]

13 Power to make rules.—The Government may, by notification, make rules to carry out the purposes of this Act and in particular—

(a) for the delegation of their powers to the Board of Revenue, Collectors or other authorities;

(b) for the provision of such appeals and revision as may be found necessary in respect of the orders passed by any authority to whom powers may be so delegated;

(c) for the manner of estimating the gross produce and prices under section 4;

(d) for all matters expressly required or allowed by this Act to be prescribed.

14. Saving.—Nothing contained in this Act shall apply to the levy, determination, payment or recovery of betterment contribution from the landholders of lands which are benefited, or are capable of being benefited, by the construction, expansion or alteration of any work, if provision in that behalf is contained in any other law relating thereto and for the time being in force.

R. V. KRISHNA AYYAR,
Secretary to the State Legislature.

GOVERNMENT ESTATE, MOUNT ROAD, MADRAS,
27th November 1954.

APPENDIX.

DISSENTING MINUTES.

I

This taxation is a measure which will affect the peasantry irrespective of area and is likely to bring in all schemes by which the lands are claimed to be improved in value.

The peasantry is faced with a serious crisis as is indicated by the trend of prices of the agricultural products. The future of the entire peasantry is uncertain. Already the burden of taxation on the peasantry is very heavy as they have to pay huge land revenue, water-cess, land revenue surcharge, etc. When the Government contemplates additional burden on the peasantry there should be at least provision for equitable distribution of the burden. It is in this view that we want to make the following proposals which differ from the majority view of the Select Committee:—

1. We propose that *five* times the annual increase in the gross produce of the lands benefited by a scheme deducting the amounts spent for taking advantage of the improvement, may be sufficient for the purpose of calculating the quantum of levy that can be made

[7th February 1955]

on a land. If the improvement is valued at *ten* times as contemplated in the bill, it will result in a large number of small holders getting squeezed out, as they will not be in a position to bear this burden in addition to making provision for sufficient investment for bringing the land under improved cultivation, taking advantage of the benefit conferred by the Government scheme.

2. With regard to the commencement of the tax it should start only after *five* years of taking advantage of the benefit instead of *two* years as contemplated in the bill; because we consider that it will take at least *five* years to ascertain the exact quantum of improvement which has resulted in the produce. It is also necessary that the tax should be levied only in case and after, water has actually been taken for cultivation of the land. This is necessary to protect small landholders who will not be able to take immediate advantage of the scheme due to financial difficulties. If this protection is not provided it will lead to large-scale alienation of lands.

3. If betterment levy is considered unavoidable in the interest of State finance then there must be protection for the small landholders. Hence we suggest that an exemption limit may be fixed up to holdings of *ten standard acres*.

This principle of exemption has already been accepted in the case of surcharge on land revenue.

4. We feel that there is no justification whatsoever to make a tenant liable for the payment of tax on a land to which he is not the owner.

5. The Bill contemplates to bring within its purview even minor irrigation works. It is the responsibility of the Government to give normal facilities of irrigation. It is not at all understandable why even minor irrigation schemes should be brought under the purview of this Bill. We propose that only major irrigation schemes which would cost *more than a lakh of rupees* for the Government should be brought within the purview of this Bill.

If the Bill is to be acceptable to the people, in our opinion, the above proposals at least must be accepted.

C. KANDASAMY.

T. C. NARAYANAN NAMBIAR.

K. T. RAJU.

MADRAS,
1st November 1954.

II

Taken as a whole, the provisions of the Bill concerning the mode of calculating the increase in the capital value of each class of lands or tax, are complicated and do not afford easy method of calculation. Tax-payers will not be in a position to know the exact amount they

7th February 1955]

would be liable to pay. The idea of entrusting the work of estimating the gross produce and value of lands to revenue authorities with no recourse to Courts of Law is not conducive to an impartial and uniform mode of working out the provisions of the Bill.

2. The words "twenty-five thousand rupees" in "the cost of which exceeds twenty-five thousand rupees" to be inserted after the words "any work (including the installation by them of a pumping set)" in Clause 3, may be amended as "rupees two lakhs".

3. The Bill provides that the betterment tax may be levied two years after the date of completion of the construction, etc., of the work. The members of the Board of Revenue who toured the Lower Bhavani Project area in the middle of September (10th and 11th) 1954, has, after personal inspection and enquiry, accepted that most of the lands under the Lower Bhavani Project, will be fit for active and profitable cultivation only ten years after the commencement of irrigation. At any rate the cultivation of such lands cannot become profitable before six years of active cultivation. The net output of the lands prior thereto will not be sufficient even to meet out the expenses incurred. I therefore suggest that the levy of tax may be commenced six years after completion of the construction, etc., of the work.

4. The entire contribution with a rebate of twenty per cent contemplated under Clause 7 of the Bill may be made payable either in cash or in the form of lands.

5. Under sub-clause (2) of Clause 4, ten times the annual increase in the gross produce estimated under sub-clause (1) is deemed to be the increase in the capital value of each class of lands. It is submitted that the value of the lands does not depend only upon their gross produce. It depends upon other considerations also, such as the extent of land available at a particular area, the density of population, the demand and the purchasing power of the people around the area, the respective market rate of the several agricultural produces and the tax-rate of the lands. Moreover, lands in different places are not of the same yielding capacity. For lands under the Mettur and the Lower Bhavani Projects, Rs. 22 per acre is to be paid as tax and water-cess. Therefore I suggest that four times the annual increase in the gross produce, estimated under sub-clause (1) may be deemed the increase in the capital value.

UNJALUR,
6th November 1954.

K. R. NALLASIVAM.